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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/065,131	09/19/2002	Ronald G. Fink	65564816	9781
39670	7590	12/04/2006	EXAMINER BECKER, DREW E	
BOC, INC. 575 MOUNTAIN AVE MURRAY HILL, NJ 07974-2064			ART UNIT 1761	PAPER NUMBER

DATE MAILED: 12/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/065,131

**Applicant(s)**

FINK ET AL.

**Examiner**

Drew E. Becker

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 September 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-13, 15-17, 19-27 and 29-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13, 15-17, 19-27 and 29-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Terminal Disclaimer***

1. The terminal disclaimers filed on 9/29/06 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of Pat. No. 6,784,440, application 11/208,682, 10/064,154, and 10/248,671 have been reviewed and are accepted. The terminal disclaimers have been recorded.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-2, 5, 7-9, 13, 15-17, 19-21, 24-27, and 29-31 are rejected under 35 U.S.C. 102(e) as being anticipated by May et al [Pat. No. 6,730,923].

May et al teach a device and method for sterilizing food comprising portable UV radiation hoods (Figure 1, #26) which inherently also produce ozone and hydroxyl radicals from oxygen and moisture in the air, the hoods having a position defined by horizontal and vertical locations (Figure 1, #26), and the hoods being capable of being inverted (Figure 1, #26), modular rods or rollers with 0% titanium dioxide, silver, and copper (Figure 4, #140), the UV radiation having a wavelength of 170-2600 nm (column

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9, line 41), the UV light sources and rods being parallel (Figure 1B), a control box (Figure 1, #46), and a frame (Figure 1, #16).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 3-4 and 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over May et al in view of Rosenthal [Pat. No. 6,150,663].

May et al teach the above mentioned components. May et al do not recite mercury lamps, an electrical box with cover, and a down bent lip. Rosenthal teaches a device and method for sanitizing food comprising a means for subjecting food to sanitizing UV radiation (abstract), means for subjecting food to ozone (column 16, line 23), means for subjecting food to hydroxyl radicals (column 16, line 40), drain means (Figure 4), the UV radiation inherently breaking down moisture and oxygen in the air into ozone and hydroxyl radicals as evidenced by applicant's disclosure (paragraph 0050), downward bent hoods with rigid frames which face the food (column 13, line 32), UV radiation at 220-310 nm (column 5, line 34), low pressure mercury vapor lamps (column 13, line 18), an electrical control box with a cover plate (Figure 1, #66), an array of six and nine modular UV reflector tubes under a shield (Figure 1, #52), and electronic ballasts (column 14, line 7). It would have been obvious to one of ordinary skill in the art to

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incorporate the features of Rosenthal into the invention of May et al since both are directed to methods of sanitizing food, since May et al already included a UV radiation system, and since these features were commonly found in UV sanitizing devices as shown by Rosenthal.

6. Claims 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over May et al in view of Hankinson et al [US 2003/0198716A1].

May et al teach the above mentioned components. May et al do not recite a mister. Hankinson et al teach a device for sanitizing foods with UV radiation and ozone by use of a spray mister (paragraph 0055). It would have been obvious to one of ordinary skill in the art to incorporate the mister of Hankinson et al into the invention of May et al since both are directed to systems for sanitizing articles, since May et al inherently included the application of ozone produced from the natural moisture in the air, and since the ozone mister of Hankinson et al provided a more reliable source of moisture from the air which can be controlled.

7. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over May et al in view of Owesen [Pat. No. 5,891,399].

May et al teach the above mentioned components. May et al do not recite wheels. Owesen teaches a device for sanitizing with UV radiation which is mounted on wheels (Figure 6A, #320). It would have been obvious to one of ordinary skill in the art to incorporate the wheels of Owesen into the invention of May et al since both are directed to systems for sanitizing, and since the wheels of Owesen provided added mobility and ease of movement.

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8. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over May et al in view of Monagan [Pat. No. 6,613,277].

May et al teach the above mentioned components. May et al do not recite an ozone monitor and alarm. Monagan teaches a sanitizing system comprising an ozone monitor and alarm (column 12, lines 33-60). It would have been obvious to one of ordinary skill in the art to incorporate the ozone alarm of Monagan into the invention of May et al since both are directed to sanitizing systems, since may et al already included the use of ozone as described above, and since the ozone monitor and alarm of Monagan provided an effective means for controlling the amount of ozone generated.

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Holding [Pat. No. 4,005,135], Cicha et al [Pat. No. 5,788,940], Treleven [Pat. No. 4,015,340], Brandt et al [Pat. No. 6,132,784], Newman [Pat. No. 5,597,597], Stowe [Pat. No. 6,566,660], and Studer [Pat. No. 6,076,451] teach movable hoods and UV radiation methods.

### ***Response to Arguments***

10. Applicant's arguments with respect to claims 1-13, 15-17, 19-27, and 29-31 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

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11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Drew E. Becker whose telephone number is 571-272-1396. The examiner can normally be reached on Mon.-Fri. 8am to 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
DREW BECKER  
PRIMA. EXAMINER  
11/30/06